

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

ERIC W. DUNLAP,

Petitioner,

vs.

Civil Action 2:14-cv-1991  
Judge Frost  
Magistrate Judge King

WARDEN, FRANKLIN MEDICAL CENTER,

Respondent.

ORDER

Petitioner, a state prisoner who was convicted in March 1992 for felonious sexual penetration, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. *Petition*, ECF 2. On October 20, 2014, the United States Magistrate Judge recommended that the *Petition* be dismissed, pursuant to the provisions of Rule 4 of the Rules Governing Section 2254 Cases in United States District Courts, for failure to state a claim for habeas corpus relief. *Order and Report and Recommendation*, ECF 3. This matter is now before the Court on petitioner's objection to that recommendation. *Objection*, ECF 5. The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b).

The *Petition* alleges simply,

No substantive law filed in this case or otherwise invoked.  
No record or substantive law for state or federal  
jurisdiction. There is no due process of law for a  
criminal state conviction. Nor any public record of any  
state offense.

*Id.* at PAGEID# 8. As noted by the Magistrate Judge, the *Petition* contains no facts in support of petitioner's claim that he is in

custody in violation of the Constitution or laws of the United States.

In his objections, petitioner contends that "no substantive law was invoked, or shown by the Respondents." *Objection*, PageID# 41.

Accordingly, petitioner argues, "It is a fact of record it [sic] is a real possibility of Fourth and Fourteenth Amendment constitutional error of record." *Id.* (emphasis in original). Petitioner argues that "it is upon the Respondent to prove or disprove the State of Ohio's lawful interest." *Id.*

The *Petition*, even liberally construed, alleges no facts in support of a claim that petitioner was convicted in violation of the Constitution or laws of the United States. See Rule 2(c) of the Rules Governing Section 2254 Cases in the United States District Courts (A habeas corpus petition must, among other things, "state the facts supporting each ground. . . ."). Simply put, the *Petition* does allege a basis for concluding that petitioner is entitled to relief, nor does it present a "'real possibility of constitutional error.'" *Blackledge v. Allison*, 431 U.S. 63, 75 n. 7 (1977) (quoting Advisory Committee Note to Rule 4, Rules Governing Habeas Corpus Cases).

Petitioner's objection to the *Report and Recommendation* is **DENIED**. The *Report and Recommendation*, ECF 3, is **ADOPTED AND AFFIRMED**. This action is **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

Moreover, the Court **DECLINES** to issue a certificate of appealability.

/s/ Gregory L. Frost  
Gregory L. Frost  
United States District Judge